

## **MEETING RECORD**

**NAME OF GROUP:** City Board of Zoning Appeals

**DATE, TIME AND**

**PLACE OF MEETING:** Friday, January 28, 2005, 1:30 p.m., Hearing Chambers, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS AND OTHERS**

**IN ATTENDANCE:**

**Members:** Gene Carroll, George Hancock, Gerry Krieser and Linda Wibbels. Tom Wanser absent.

**Others:** Terry Kathe (Building & Safety), Tonya Skinner (City Law Dept.), Becky Horner and Michele Abendroth (Planning Dept.), applicants and other interested parties.

**STATED PURPOSE**

**OF THE MEETING:** Regular Meeting of the City Board of Zoning Appeals

Chair Gene Carroll called the meeting to order at 1:30 p.m.

**Approval of the minutes of the December 17, 2004 meeting**

The members present unanimously approved the December 17, 2004 minutes. Carroll, Hancock, Krieser and Wibbels voting 'yes'; Wanser absent.

**Appeal No. 2380 by Scott Davis for a variance of the side and rear yard setback on property generally located at 805 A Street**

**PUBLIC HEARING**

**January 28, 2005**

Scott Davis, contractor for the property, stated that the house at 805 A Street has been run-down over the years and the owner has invested significant money to fix it up. The original garage was built in 1931 and needed to be repaired. He spoke with Building and Safety and understood that he could tear down the existing garage. He dug the footings and then went to get the permit. At that time, he was told he could not build the garage because of the size of the lot. He is asking for a side and rear yard variance to rebuild the garage in the same exact place as it was. There is an area of three feet between the house and garage which they would like to attach. He also presented a letter from several neighbors in support of the application.

Carroll asked if there was further testimony in favor of or against the appeal.

Danny Walker, 427 E Street, presented a letter from the South Salt Creek Community Organization. They are requesting that the Board deny this application. They believe the garage was not beyond repair. They also feel that the contractor should have made himself aware of the lot conditions prior to beginning the project. There is also no firewall protection in the garage. They also noted that this property is located in an historical district.

Barbara Bauer, 1224 S. 8<sup>th</sup> Street, stated that she has 2 objections. First, she believes it is bad form, especially in older neighborhoods, to approve zoning variances after the fact. On a personal note, she had a garage that was similar to this one, and it was repaired. Secondly, they are changing the pitch of

the roof, and she is concerned with how they are attaching the garage to the house.

George Hancock asked if there are differences in setback requirements between attached and detached garages. Terry Kathe stated that if you have a new structure attached to the main structure, you have to maintain district setbacks of 5 feet. Hancock then asked if it would be permissible to build the new garage detached. Kathe stated that it would not, because once you tear the garage down, you have to meet today's guidelines. He clarified that the setback that is required for fire safety is three feet to a property line with a 12 inch overhang. If you have less than three feet, then you have to fire rate the wall between the house and the garage. If this appeal is denied, he would be required to remove the structure that does not meet the setbacks, including the footings.

Gene Carroll asked if he could build a 10 foot wide garage that is attached to the house and has a 5 foot side yard. Kathe replied that he could.

Wibbels asked if he would be allowed to attach the garage to the house if the garage were still standing. Becky Horner replied that he would.

Carroll asked if there was further testimony in favor of or against the appeal. With no one appearing further, Carroll closed the hearing.

## **ACTION**

**January 28, 2005**

Wibbels moved to defer this application. She was previously under the impression that the garage was still standing because the materials given to her referred to an 'existing' garage. But after touring the property today, she found out that the garage had been torn down. She feels she needs more time to fairly think this through. The motion died due to the lack of a second.

Hancock moved to deny this application, seconded by Krieser. Motion carried 4-0. Carroll, Hancock, Krieser and Wibbels voting 'yes'; Wanser absent.

**Appeal No. 2381 by Ray Mayhew for a variance to reduce the minimum frontage requirement on property generally located at 3130 Cornhusker Highway.**

## **PUBLIC HEARING**

**January 28, 2005**

Ray Mayhew, owner of Mayhew Signs, is asking for a variance of the front lot. The current sign has 143 feet of frontage, but the sign they want to install requires 150 feet of frontage. They are proposing a sign of 150 square feet. He is allowed two signs of 100 square feet each. They felt that aesthetically and visibly, it would be better to have one larger sign instead of the two smaller ones. He does not believe the sign would obstruct the view of Wendy's property. He feels one sign as opposed to two would be less detracting.

Wibbels stated that she agrees the sign is too small and not very noticeable. She asked what the options were to increase the size of the sign where it is right now. Kathe replied they can have one sign of 50 square feet in the setback or 100 square feet out of the setback.

Carroll asked if there was further testimony in favor of or against the appeal.

David Cichoracki, owner of the business at 3130 Cornhusker Highway, stated that he was told by the Planning Department that he was allowed two signs as he owns two businesses. He feels that one sign would create less of an obstruction than two signs. One larger sign would also give more visibility for the business.

Byron Yurth, owner of the property, is asking for approval of the variance. They feel this sign would not obstruct the view for the neighbors. They would like to stay with one larger sign as opposed to two smaller signs for aesthetic and visibility reasons.

Carroll asked if there was further testimony in favor of or against the appeal. With no one appearing further, Carroll closed the hearing.

## **ACTION**

**January 28, 2005**

Horner clarified that the I-1 sign code indicates that you can have either a pole or ground sign per business per frontage. Kathe added that if you have over 150 feet of frontage, you are allowed two signs per business. If there are two businesses, they can be in the same building, but they have to be separate and distinct businesses in order to have their own signs.

Hancock noted that there are no unusual or exceptional circumstances with this property. Carroll is voting denial based upon the code requirement that there has to be 150 feet of frontage.

Carroll moved to deny this application, seconded by Wibbels. Motion carried 4-0. Carroll, Hancock, Krieser and Wibbels voting 'yes'; Wanser absent.

## **Appeal No. 2379 by Cameron Hill for a variance of the rear yard setback on property generally located at 3201 Arbor Road.**

Horner stated that the applicant has requested a deferral until the February meeting because he is pursuing a change of zone.

Krieser moved to defer the application, seconded by Wibbels. Motion carried 4-0. Carroll, Hancock, Krieser and Wibbels voting 'yes'; Wanser absent.

Horner then presented a resolution in honor of Linda Wibbels, whose term on the Board of Zoning Appeals expires February 1, 2005. Wibbels stated that she has enjoyed her terms as a Board member and thanked her fellow Board members and City staff for their work. Carroll thanked Wibbels for her service and presented a certificate of appreciation to her.

Carroll adjourned the meeting at 2:27 p.m.